

A Commission lawyer replies

'Truth was my only goal'

The following response by David Belin, one of the two Warren Commission lawyers charged with determining who killed John Kennedy, is, to our knowledge, the first written response any Warren Commission lawyer has made to criticism of the investigation of the assassination of President Kennedy. —Ed.

By David Belin

Des Moines

Like the proverbial person who is so close to the forest that he cannot see the trees, the assassination sensationalists have talked about cigarette packages, fictitious puffs of smoke from smokeless gunpowder and chicken bones. What they have not talked about is the heart of the physical evidence and key witnesses such as Johnny Calvin Brewer, whose testimony I took before a court reporter in Dallas on April 2, 1964. (Vol. VII, pp. 1-8)

Mr. Brewer was the assistant manager of a shoe store located near the Texas Theatre in the Oak Cliff section of Dallas. He became suspicious of the way Oswald ducked into his store early in the afternoon of Nov. 22, 1963, when police sirens were heard coming down the street. After the police sirens subsided, Oswald left the front of the shoe store and Brewer followed him into the Texas Theatre and then had the theatre cashier call the police. When they arrived at the theatre, Brewer pointed out Oswald, who pulled out a revolver which he had in his possession as the police approached him.

CARRYING A concealed weapon is a crime, and the very fact that Oswald had such a weapon in his possession on November 22, 1963, surely cannot be ignored. Moreover, the act of pulling out a revolver as a police officer approaches is somewhat suspicious, to say the least. Documentary evidence proved that this very revolver had been purchased by Oswald — under an alias. Finally, irrefutable scientific evidence proved that this revolver to the exclusion of all other weapons in the world was the weapon which discharged the cartridge cases which witnesses saw the murderer of Officer J. D. Tippit toss away as he was leaving the scene of the Tippit murder. (The bullet slugs themselves in Tippit's body were too mutilated to avail themselves of conclusive ballistic testimony, but cartridge cases can be individually traced to a particular weapon, just as un mutilated bullet slugs can.)

In addition to the physical evidence of the gun and the cartridge cases, there were several witnesses including William

Scoggins, Ted Callaway and Barbara Jeanette Davis who saw the gunman at or near the scene of the Tippit murder and who identified Oswald as the gunman in police lineups.

The silence of the assassination sensationalists is very telling — they cannot seriously challenge the conclusion that Oswald killed Tippit, in light of the weapon found in his possession, the ballistic evidence of the cartridge cases and the combined effect of this with the eye witness testimony of independent witnesses near the murder scene plus the testimony of Johnny Calvin Brewer.

In the case of the murder of President Kennedy, two of the bullet fragments found in the presidential limousine were large enough for ballistic identification. In addition, a nearly whole bullet was found at Parkland Memorial Hospital. Less than an hour after the assassination, a Mannlicher-Carcano rifle, No. C2766, was found stuffed between some cartons near the back stairway on the sixth floor of the Texas School Book Depository Building. Irrefutable scientific evidence proved that these bullets came from that particular weapon to the exclusion of all other weapons in the world. I, myself, examined these bullet slugs with test bullets from the rifle with a comparison microscope.

In addition to the bullet and two large portions of a bullet(s), three cartridge cases were discovered shortly after the assassination at the southeast corner window of the sixth floor of the Texas School Book Depository Building. Scientific evidence proved that these cartridge cases, like the bullets, came from that particular rifle to the exclusion of all other weapons in the world.

I PERSONALLY took the testimony of the executive officer of Klein Sporting Goods, which was the company that sold and shipped the rifle to Lee Harvey Oswald's post office box in Dallas under his assumed alias, A. Hidell. I personally saw the copy of the order form that Oswald sent in for the rifle.

The only persons who testified they saw a rifle at the time of the assassination testified they saw that rifle in the southeast corner of the Texas School Book Depository Building. There are myriads of other facts, all of which are summarized in our official report of the Warren Commission which conclusively show that Lee Harvey Oswald was the assassin of President Kennedy.

Through the past several years, I have marvelled how easily the world has been

deceived by assassination sensationalists like Sylvia Meagher. The device used has been relatively simple: Distortion by commission, coupled with distortion by omission and often the use of innuendo.

Perhaps I, too, would have been misled by some of the writings of the sensationalists if I had not personally worked with the Warren Commission as one of the two lawyers who concentrated in what we called "Area II: The determination of who was the assassin of President Kennedy." My partner was the distinguished California attorney, Joseph A. Ball. By the time we had completed our work, we had more first-hand knowledge of the evidence pertaining to who was the assassin of President Kennedy and who murdered Dallas Police Officer J. D. Tippit than any other people in the world.

When Kaye Northcott, editor of *The Texas Observer*, wrote me that she was considering for publication the contrived article by Sylvia Meagher, I replied on December 10, 1970, that "... all of the allegations in the article of Sylvia Meagher are false. ... If one takes the time to read and study the basic report of the Warren Commission, the evidence as a whole conclusively shows that Lee Harvey Oswald killed John F. Kennedy and also killed Officer J. D. Tippit. Moreover, as one of the lawyers who was intimately involved in the interrogation of the key witnesses to the assassination, I know that the evidence was impartially and objectively gathered with the one goal that we all had in mind: the truth, the whole truth, and nothing but the truth. As an independent lawyer, I am beholden to no one and there is not a person in the world who could have made me sign any report concluding that Oswald murdered President Kennedy and Officer Tippit if I did not believe that the evidence as a whole showed that the murderer of Officer Tippit and the murderer of John F. Kennedy beyond a reasonable doubt was Lee Harvey Oswald."

ONE INHERENT problem in defending the Warren Commission report is that a lie can be uttered in a relatively few sentences. In contrast, in order to give a true picture of the entire facts, several paragraphs, or more, may be necessary. Yet, space limitations do not permit such a complete reply.

For instance, Sylvia Meagher writes about references to Charles Givens on pages 101, 105-107 and 110 of what she refers to as the "Ball/Belin Memorandum

of February 25, 1964." She omits vital portions of this document (the correct name of which was "Ball-Belin Report #1"), including the following from the initial three paragraphs of this 238-page document:

... Our report contains a summary of tentative conclusions reached on the basis of the thousand of pages of material examined thus far, but these conclusions are subject to change depending upon the results of further materials examined, the taking of evidence and additional information received from crime laboratory reports.

We should also point out that the tentative memorandum of Jan. 23 substantially differs from the original outline of our work in this area which had as its subject, "Lee Harvey Oswald as the Assassin of President Kennedy," and which examined the evidence from that standpoint. *At no time have we assumed that Lee Harvey Oswald was the assassin of President Kennedy. Rather, our entire study has been based on an independent examination of all of the evidence in an effort to determine who was the assassin of President Kennedy.* (Emphasis added.)

A primary purpose of this report is its adaptability for our own use in making further investigation. We have not attempted to make an exhaustive analysis of the interviews with the various persons involved. Rather, we have tried to pinpoint the most important facts and problems which appear from the data which has been examined thus far.

As an experienced trial lawyer, I know that whenever there are two or more witnesses to an event, you most likely find contradictions in the testimony between and among witnesses, and you often find contradictions within the testimony of a single witness. I also know that the best source of testimony is from the witness, himself, rather than from hearsay reports of that third party, such as police officers or FBI or secret service agents might write down. Included in our Ball-Belin Report #1 were comments on a number of contradictions within the hearsay statements of third parties, including inconsistencies in the testimony of Mr. Givens. I also noted in one of the written reports the observation of an officer that

Mr. Givens might be readily subject to influence.

WHEN I WENT to Dallas to take the testimony of various witnesses, including Mr. Givens, I did not go as a participant in an adversary proceedings — either a prosecuting attorney or a defense attorney — but rather I went as an attorney trying to ascertain the facts in a manner that would avoid leading any of the witnesses into giving preconceived or any type of "desired" testimony. Mr. Givens is a perfect example of this, for in a portion of his testimony which Sylvia Meagher did not quote, I asked Mr. Givens:

MR. BELIN: Is there anything else you can think of, whether I have asked it or not, that in any way is relevant to the assassination?

MR. GIVENS: No, sir.

MR. BELIN: Anything else you can think of about Lee Oswald, whether I have asked it or not, that might in any way be helpful?

MR. GIVENS: No, sir. Other than he is just a peculiar fellow. He is just a loner. Don't have much to say to anybody. Stayed by himself most of the time. (Vol. VI, p. 355)

Any experienced trial lawyer knows you do not ask questions such as this if you are trying to hide any facts. Mrs. Meagher writes such garbage as, "Was the testimony part and parcel of a deliberate, planned collusion among police officials, commission lawyers and a witness who was a man with a police record and was appraised as a man who would change his story for money?" Not only do the foregoing portions of my interrogation of Mr. Givens show the utter falsity of such an allegation, but a minute or two later in the interrogation of Mr. Givens I asked a similar series of questions once again and then concluded with a statement in the record showing how my interrogation of witnesses was conducted:

MR. BELIN: Anything else you can think of?

MR. GIVENS: No, sir; that is about it.

MR. BELIN: Well, Mr. Givens, we surely appreciate your cooperation in coming down here. Now you and I didn't talk about this at all until we started

taking this deposition, did we?

MR. GIVENS: No, sir.

MR. BELIN: You walked into the room and you raised your right hand and we started taking your testimony. Is that correct?

MR. GIVENS: Yes, sir.

MR. BELIN: Have I ever met you before?

MR. GIVENS: I don't believe so. I don't believe I have." (Vol. VI, pp. 355, 356)

In light of this record which Sylvia Meagher no doubt read, her use of the innuendo of "planned collusion" is an outright prostitution of the truth. At all times while I was with the Warren Commission, my sole concern was to get at all of the facts, letting the chips fall where they may, without trying to arrive at any preconceived result.

WITH THIS AS a frame of reference, let us further examine the testimony of Givens with reference to the various discrepancies in police and FBI reports of interviews with him. Givens testified that around 8:30 a.m., on Nov. 22, he saw Lee Harvey Oswald on the first floor of the School Book Depository Building. The record shows the following:

MR. BELIN: All right. You saw him at 8:30 on the first floor?

MR. GIVENS: Yes, sir.

MR. BELIN: Then what did you do?

MR. GIVENS: Well, we went back upstairs and started to work.

MR. BELIN: You went back up to the sixth floor to continue laying the floor?

MR. GIVENS: Yes, sir.

MR. BELIN: When did you see Lee Harvey Oswald next?

MR. GIVENS: Next?

MR. BELIN: Yes.

MR. GIVENS: Well, it was about a quarter till twelve, we were on our way downstairs, and we passed him, and he was standing at the gate on the fifth floor. I came downstairs, and I discovered I left my cigarettes in my jacket pocket upstairs, and I took the elevator back upstairs to get my jacket with my cigarettes in it. When I got back upstairs, he was on the sixth floor in that vicinity, coming from that way.

MR. BELIN: Coming from what way?

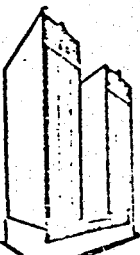
MR. GIVENS: Toward the window up front where the shots were fired from." (Vol. VI, pp. 347, 348)

Givens testified that Oswald was walking with a clipboard in his hand, from the southeast corner of the sixth floor. After the assassination, Oswald's clipboard was found on the sixth floor, not too far from the place where the assassination weapon was discovered stuck between some book cartons near the back stairway.

After Givens' testimony about returning to the sixth floor, I specifically asked him about the domino room because of early written reports of third parties in our possession. Mrs. Meagher refers to one area of questioning which occurred on page 354 of Volume VI:

MR. BELIN: Did you ever tell anyone that you saw Lee Oswald reading a

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newspaper in the domino room around 11:50, 10 minutes to 12 on that morning on November 22nd?

MR. GIVENS: No, sir. (Vol. VI, p. 352) However, she conveniently omits the following testimony which appears on page 352 of Volume VI:

MR. BELIN: Now you said you saw Lee Oswald on the sixth floor around 11:55?

MR. GIVENS: Right.

MR. BELIN: Did you see Lee Oswald anywhere else in the building between 11:55 and the time you left the building?

MR. GIVENS: No, sir.

MR. BELIN: On November 22nd?

MR. GIVENS: No, sir.

MR. BELIN: Did you see him in the domino room at all around anywhere between 11:30 and 12 or 12:30?

MR. GIVENS: No, sir." (Vol. VI, p. 352)

The foregoing omissions of Sylvia Meagher are typical of all of the assassination sensationalists who have picked at extracts from an overall record with the Joseph McCarthy-like technique of innuendo of conspiracy. Moreover, in concentrating on innuendo and minute particles of an overall mass of evidence, there has been a most significant silence concerning the crux of the physical evidence and the overwhelming weight of testimony from the record. A full reading of the Warren Commission Report and the underlying published documentary evidence and testimony of witnesses conclusively shows that within a one-hour period, Lee Harvey Oswald killed two men in Dallas, Tex., on November 22, 1963: President John F. Kennedy and Dallas Police Officer J. D. Tippit.

Perhaps some day I shall take the time to write a book and expose the Sylvia Meaghers and the Mark Lanes and others for the inaccurate sensationalists that they have been. Yet, although I know that they have deceived the public, surely their sins of deception are not that great when compared with the kind of deception that has plagued America this past decade, Number One on the list, of course, being the Vietnam War.

When a Gulf of Tonkin resolution can pass both Houses of Congress and lead a President of the United States to commit over a half million American men and One Hundred Billion Dollars to fight a land war in Southeast Asia with all of the terrible consequences of such a war on both the American people as well as the Vietnamese, I do not get so worked up about the utter falsity of the writings about the Warren Commission by people such as Sylvia Meagher. After all, what is most important is not what others say that I did but rather what I know actually took place and that is very simple:

Like all of the other lawyers working with the Warren Commission, truth was my only goal. On the basis of the overall record as I investigated the two murders of Nov. 22, beyond a reasonable doubt, the man who killed President John F. Kennedy and Dallas Police Officer J. D. Tippit was Lee Harvey Oswald.

the TEXAS PRAVIDA

The all-Texas Sunday magazine

By David Helton

Austin

It's too easy. There's something very typically Texan about making no precaution against ridicule. Lyndon Johnson, for a good example. I'd be willing to bet that it was ridicule that personally hurt him more than anything else during his presidency, and yet he always laid himself open and always seemed hurt or surprised when people laughed. Every time he rolled out that misty drawl — every time his sad, honest, potlikker face appeared on television, the first inclination was to cover it all in custard pie . . .

This is about a thing called *The Texas Star*. It's a Sunday supplement magazine circulated by 26 Texas newspapers at a rate of nearly a million and a half copies per issue, giving it probably the largest weekly readership in the state. As a Sunday supplement its high circulation was pretty much ready-made, but the figure is still remarkably large for a publication that has existed only since May. I went to the *Star* office the other day and picked up all of the back issues, with the idea of writing something about the magazine, and when I got home with those back issues my wife and I sat at the kitchen table and read through them and laughed until we couldn't laugh any more, until I began to wonder how in hell I was going to write anything about *The Texas Star*, what I could say that wouldn't be like, well, like calling a dwarf short. I mean, there it is. It's a piece of chauvinistic, sentimental, chamber-of-commerce, pre-Alaska, Texas-brags, right-wing, ridiculous junk. Its publisher is Gordon Fulcher, a newspaper publisher and current chairman of the Texas Water Quality Board. Its editor is Jimmy Banks, formerly an Austin correspondent for the *Dallas Morning News* and an unsigned columnist for the rightist *Houston Tribune*.

Its staff humorist is Wick Fowler. One of its founders was John Connally. What else do you need to know?

Except that that's too easy, isn't it? When all the laughter has subsided, you realize that *The Texas Star* is still there, that it has a million and half readers, that it

has been created in all seriousness, that — as with Johnson — ridicule won't make it go away. Then it becomes a bit more frightening than funny, and then it becomes advisable to say a little more about it. This isn't as simple, or fun, as laughing, but . . .

I'VE FOUND two statements in the column "Star Comment" (all their standing heads make something of the word "star" — Star Light, Star Bright, Star Hostess, Rising Star, Early Stars . . .) that are what I suppose to be thematic keynotes for the magazine. In the first issue, May 16, Connally tells its purpose, and Fulcher, on July 4, its politics. Fulcher says,

We can worship as we want to or not at all. Under the latter day court rulings, we can have access to about anything we want in the way of reading materials. Hordes can assemble and march around protesting and defaming and snarling at the very Constitution and Bill of Rights which allow them to act so atrociously.

Darned near any nitwit can run for public office and some of those in that category can even get elected.

Now, people who are hardly allowed to go to town to buy their own clothes can go to the polls and vote.

While there are some deplorable social ills, the people of America eat better, are better housed, and have more refrigerators, paved roads, automobiles, hair curlers, dishwashers, insurance, packaged foods, ice, drive-in restaurants, newspapers, and a jillion other things than any other people.

There's some debate about whether the repression has arrived or whether we have yet to feel the full force of it, but, whatever, here is a man calling for it. Here is your dead earnest anti-democrat (What nitwits does he mean?) Not conservatives, I'll bet. Who doesn't allow an 18-year-old to buy his own clothes? Not possibly the same people who do allow him to go down to Viet Nam and get the clap and dysentery, maybe hooked on smack, maybe blown to bits? Of course he still doesn't have to buy his own clothes, and if that's a prerequisite for enfranchisement then let's question the entire enlisted military vote.)

Here is the simple country yearning for the technological fascism that Ray Bradbury prophesied in *Fahrenheit 451*, Aldous Huxley in *Brave New World* and George Orwell in 1984. Here is the quick, glib twist of logic that transforms people

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The writer is a novelist who lives on a farm near Bastrop. His first novel, *King Jude*, was printed by Simon & Schuster.